



Periodic Review / Retain Regulation Agency Background Document

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) citation	12VAC5-220
Regulation title	Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations
Document preparation date	January 24, 2007

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 36 (2006) and 58 (1999).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.

The Medical Care Facilities Certificate of Public Need Rules and Regulations (COPN regulation) is promulgated by the Office of Licensure and Certification of the Virginia Department of Health, for the Board of Health, under the authority of § 32.1-102.2 of the *Code of Virginia* (Code), which mandates that the Board promulgate regulations to “establish concise procedures for the prompt review of applications for certificates” in implementing Virginia’s Medical Care Facilities Certificate of Public Need (COPN) law. Existence of the COPN regulation is, therefore, mandated.

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

The department is required to regulate the medical care facility projects defined in § 32.1-102.1 of the Code. The COPN regulation provides applicants and reviewing agencies with the framework for examining the need for projects requiring a COPN. The COPN regulation is necessary to carry out the mandate of the COPN law.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Commenter	Comment	Agency response
Susan Ward Vice president and General Counsel Virginia Hospital & healthcare Association	We remind the department to consider any issues identified in the work of the SMFP Advisory Group in 2006 as being more appropriately addressed in the COPN regulation [e.g.,] the issue of COPN holders' obligations to meet certain indigent and primary care conditions.	The department acknowledges the comment. However, because the recommended delay in codifying COPN condition obligations came from the advisory group and not agency staff, and because there are supporting guidelines to clarify existing law, the department does not believe there is a critical need to initiate codification at this time.

No informal advisory group was formed for purposes of assisting in the periodic review.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 36, e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The COPN regulations is clearly written and understandable and meets the criteria set out in E.O. 36.

Result

Please state that the agency is recommending that the regulation should stay in effect without change.

The department has determined that the regulation shall stay in effect without change.

Family impact

Please provide an analysis of the regulation's impact on the institution of the family and family stability.

There is no direct impact on the institution of the family or family stability.